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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

John H. White,

Respondent.

NO. C-04-009-06-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO PROHIBIT FROM INDUSTRY
AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of January 12, 2006, the Director institutes this proceeding and alleges as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent: John H. White (White) was employed as Vice President of Signal Mortgage, Inc. (Signal), a licensed mortgage broker. Signal was licensed by the Department on November 10, 1994 and Roger G. Robbin is the designated broker. Signal is known to conduct business at:

909 SE Everett Mall, Ste. A160
Everett, WA 98208

1.2 Investigation: The Department received information that White had been charged in Federal Court with various fraud related crimes. The Department initiated an investigation to review the allegations against White. According to Federal charging documents, White conspired with several other individuals in an elaborate real estate investment fraud. The Federal charging documents alleged White, while claiming to act as an officer and agent of Signal, mislead investors into believing Signal had obtained millions of dollars in

1 mortgage loans to finance the purchase and development of a large office park in Everett, Washington. The
2 Federal charging documents alleged that there was in fact no such financing, that the principals of Signal were
3 unaware of White's representations, and that White was not acting as an agent or officer of Signal when he
4 made the fraudulent misrepresentations.

5 **1.3 Criminal Conviction of Felony:** On June 17, 2005, in U.S. District Court, Western District of
6 Washington (Seattle), in Case#: 2:03-cr-00370-RSL-3, White was found guilty, on plea of guilty, to one felony:
7 Conspiracy to Defraud the United States, 18 U.S.C. 371.

8 **1.4 Sentence:** As a result of White's conviction described in Paragraph 1.3 above, judgment and sentence
9 was ordered against White as follows:

10 **A. Restitution, Fees and Fines:** White was ordered to pay a \$100 assessment. Restitution was to be
11 determined at a future hearing. As of January 12, 2006, a restitution hearing had not been set.

12 **B. Confinement:** White was ordered to serve ten months of confinement in the custody of the U.S.
13 Bureau of Prisons. White was sentenced to three years of probation after his release from
14 confinement.

15 16 **II. GROUNDS FOR ENTRY OF ORDER**

17 **2.1 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(iii), the Director may
18 prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer, principal,
19 employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act
20 for conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining
21 a license.

22 **2.2 Authority to Charge Investigation Fee:** Pursuant to RCW 19.146.228(2), WAC 208-660-060 and WAC
23 208-660-061, upon completion of any investigation of the books and records of a licensee or other person subject to
24 the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
25 the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and seventy-eight
26 cents (\$47.78) per hour that each staff person devoted to the investigation.

1
2 **III. NOTICE OF INTENTION TO ENTER ORDER**

3 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
4 in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under
5 RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER
6 that:


- 7 3.1 Respondent John H. White be prohibited from participation in the conduct of the affairs of any licensed
8 mortgage broker, in any manner, for a period of seven (7) years; and
9 3.2 Respondent John H. White pay an investigation fee in the amount of \$272.69 calculated at \$47.78 per
hour for 5.5 staff hours devoted to the investigation.

10
11 **IV. AUTHORITY AND PROCEDURE**

12 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry and Collect
13 Investigation Fee is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
14 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
15 Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF
16 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of
17 Charges and Notice of Intention to Enter an Order to Prohibit from Industry and Collect Investigation Fee.

18 Dated this 7th day of February, 2006.




CHUCK CROSS
Director
Division of Consumer Services
Department of Financial Institutions

1 Presented by:

2 

3 Ned Jürsek

4 Financial Legal Examiner

5
6
7 Approved by:

8 

9 James R. Brusselback

10 Enforcement Chief

1 **RCW 19.146.010 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

2 ...
(12) "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a)
3 makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b)
holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to
obtain a residential mortgage loan.

4 ...
(14) A person is "convicted" of a crime, irrespective of the pronouncement or suspension of sentence, if the person:
•Is convicted of the crime in any jurisdiction;
5 •Is convicted of a crime which, if committed within this state would constitute such a crime under the laws of this state;
•Has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to
6 such a charge before a court or federal magistrate; or
•Has been found guilty of such a crime by the decision or judgment of a court or federal magistrate or by the verdict of
7 a jury.

(15) "Department" means the department of financial institutions.

8 ...
(17) "Director" means the director of financial institutions.

9 ...
(22) "Independent contractor" or person who independently contracts" means any person that:
• Expressly or impliedly contracts to perform mortgage broker activities for a licensee;
10 • With respect to its manner or means of performing the activities, is not subject to the licensee's right of control; and
• Is not treated as an employee by the licensee for the purposes of compliance with federal income tax laws.

11 ...
(24) "License" means a license issued by the director to engage in the mortgage broker business.

12 (25) "Licensee" or "licensed mortgage broker" means:
•A mortgage broker licensed by the director; and
13 •Any person required to be licensed pursuant to RCW 19.146.200 and 19.146.020.

14 (26) "Loan originator" means a natural person:
•Who is a mortgage broker employee who performs any mortgage broker activities; or
15 •Who is retained as an independent contractor by a mortgage broker, or represents a mortgage broker, in the
performance of any mortgage broker activities.

16 ...
[1997 c 106 § 1; 1994 c 33 § 3; 1993 c 468 § 2; 1987 c 391 § 3.]

17 **RCW 19.146.220 Director -- Powers and duties -- Violations as separate violations -- Rules.**

18 (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to
mortgage brokers, and hold hearings.

19 (2) The director may impose the following sanctions:

20 (a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this
chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:
21 (i) False statements or omission of material information on the application that, if known, would have allowed the
director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

22 (iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or
23 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

- (i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
- (ii) Failure to comply with any directive or order of the director;
- (d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:
- (i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or
- (ii) Pay restitution to an injured borrower; or
- (e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:
- (i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or
- (ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;
- (iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or
- (iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

RCW 19.146.221 Action by director -- Hearing -- Sanction.

The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[1994 c 33 § 13.]

RCW 19.146.223 Director -- Administration and interpretation.

The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

[1994 c 33 § 2.]

RCW 19.146.228 Fees -- Rules -- Exception.

The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- (1) An annual assessment paid by each licensee on or before a date specified by rule;
- (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and
- (3) An application fee to cover the costs of processing applications made to the director under this chapter.

1 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation
2 determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the
3 complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the
4 authority of this chapter shall be deposited into the financial services regulation fund, unless the consumer services account
5 is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this
6 chapter shall be deposited in the consumer services account.

7 [2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

8 **RCW 19.146.230 Administrative procedure act application.**

9 The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and
10 imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall
11 be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

12 [1994 c 33 § 16; 1993 c 468 § 10.]

13 **RCW 19.146.235 Director -- Investigation powers -- Duties of person subject to examination or investigation.**

14 For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or by
15 a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every
16 licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act
17 under or without the authority of this chapter. For that purpose the director and designated representatives shall have access
18 during regular business hours to the offices and places of business, books, accounts, papers, records, files, safes, and vaults
19 of all such persons.

20 The director or designated person may direct or order the attendance of and examine under oath all persons whose
21 testimony may be required about the loans or the business or subject matter of any such examination or investigation, and
22 may direct or order such person to produce books, accounts, records, files, and any other documents the director or
23 designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and
24 testify, or does not produce the requested books, records, files, or other documents within the time period established in the
25 directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling
production of books, records, files, or other documents. No person subject to examination or investigation under this
chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other
information.

Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or
places of business to conduct a compliance examination. The director may examine, either personally or by designee, a
sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and
undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter.
For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have
been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the
director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been
taken or to investigate a complaint.

[1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

WAC 208-660-060 Department's fees and assessments.

(1) Upon completion of processing and reviewing an application for a license or branch office certificate, the department will prepare a billing, regardless of whether a license or certificate has been issued, calculated at the rate of \$35.98 per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the department will be billed to and paid promptly by the applicant, while any balance remaining from the deposit will be refunded promptly to the applicant.

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-660-060, filed 5/29/01, effective 7/1/01; 96-04-028, recodified as § 208-660-060, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-060, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-060, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-060, filed 1/7/94, effective 2/7/94.]

WAC 208-660-061 Fee increase.

The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-660-061, filed 5/29/01, effective 7/1/01.]

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NO. C-04-009-06-SC01

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR HEARING

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John H. White

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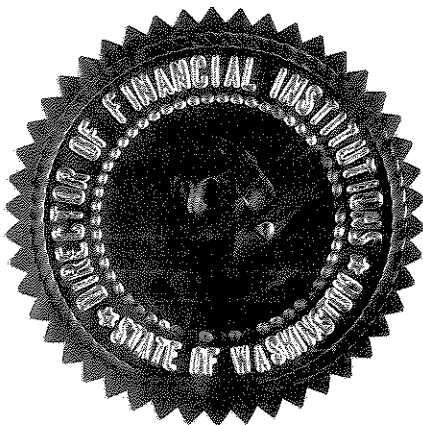
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1 INTERPRETER AVAILABILITY. If you or a witness for you is a person who, because of non-English-
2 speaking cultural background, cannot readily speak or understand the English language, or if you or a witness for
3 you is a person who, because of a hearing impairment or speech defect, cannot readily understand or communicate
4 in spoken language, including persons who are deaf, deaf and blind, or hard of hearing, AND YOU NEED AN
5 INTERPRETER, then a qualified interpreter will be appointed at no cost to you or to the witness. You may
6 request the appointment of a qualified interpreter by indicating your request on the attached Application for
7 Adjudicative Hearing form.

8 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the
9 Application for Adjudicative Hearing form within twenty (20) days from the date you received this notice, this
10 will constitute a waiver of your right to a hearing and the Director will find that you do not contest the allegations
11 of the Statement of Charges. Upon such a finding by the Director a final order will be immediately entered
12 disposing of this matter as described in the Statement of Charges. If you desire a hearing in this matter, please
13 return the attached Application for Adjudicative Hearing to:

14 Department of Financial Institutions, Division of Consumer Services
15 Attn: Ned Jursek
16 PO Box 41200
17 Olympia, Washington 98504-1200

18 Dated this 7th day of February, 2006.



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CHUCK CROSS
Director
Division of Consumer Services
Department of Financial Institutions